

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2304

Chapter 19, Laws of 2012

62nd Legislature
2012 Regular Session

LOW-LEVEL RADIOACTIVE WASTE SITE USE PERMIT PROGRAM

EFFECTIVE DATE: 07/01/12

Passed by the House February 13, 2012
Yeas 96 Nays 2

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate February 24, 2012
Yeas 49 Nays 0

BRAD OWEN

President of the Senate

Approved March 7, 2012, 2:18 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2304** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

March 7, 2012

**Secretary of State
State of Washington**

HOUSE BILL 2304

Passed Legislature - 2012 Regular Session

State of Washington 62nd Legislature 2012 Regular Session

By Representatives Hudgins, Hunt, and Moscoso; by request of Department of Health and Department of Ecology

Read first time 01/11/12. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to transferring the low-level radioactive waste
2 site use permit program from the department of ecology to the
3 department of health; amending RCW 43.200.015, 43.200.080, 43.200.170,
4 43.200.180, 43.200.190, 43.200.200, 43.200.230, 70.98.030, 70.98.085,
5 70.98.095, 70.98.098, and 70.98.130; adding a new section to chapter
6 70.98 RCW; adding a new section to chapter 43.200 RCW; repealing RCW
7 43.200.210; and providing an effective date.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 **Sec. 1.** RCW 43.200.015 and 1989 c 322 s 1 are each amended to read
10 as follows:

11 As used in this chapter, the following terms have the meanings
12 indicated unless the context clearly requires otherwise.

13 (1) "High-level radioactive waste" means "high-level radioactive
14 waste" as the term is defined in 42 U.S.C. Sec. 10101 (P.L. 97-425).

15 (2) "Low-level radioactive waste" means waste material that
16 contains radioactive nuclides emitting primarily beta or gamma
17 radiation, or both, in concentrations or quantities that exceed
18 applicable federal or state standards for unrestricted release. Low-
19 level waste does not include waste containing more than one hundred

1 nanocuries of transuranic contaminants per gram of material, nor spent
2 nuclear fuel, nor material classified as either high-level radioactive
3 waste or waste that is unsuited for disposal by near-surface burial
4 under any applicable federal regulations.

5 (3) "Radioactive waste" means both high-level and low-level
6 radioactive waste.

7 (4) "Spent nuclear fuel" means spent nuclear fuel as the term is
8 defined in 42 U.S.C. Sec. 10101.

9 (5) "Department" means the department of ecology.

10 (6) "Commercial low-level radioactive waste disposal facility" has
11 the same meaning as "facility" as defined in RCW 43.145.010.

12 **Sec. 2.** RCW 43.200.080 and 2003 1st sp.s. c 21 s 1 are each
13 amended to read as follows:

14 The director of ecology shall, in addition to the powers and duties
15 otherwise imposed by law, have the following special powers and duties:

16 (1) To fulfill the responsibilities of the state under the lease
17 between the state of Washington and the federal government executed
18 September 10, 1964, as amended, covering approximately one (~~thousand~~)
19 hundred fifteen acres of land lying within the Hanford reservation near
20 Richland, Washington. The department of ecology may sublease to
21 private or public entities all or a portion of the land for specific
22 purposes or activities which are determined, after public hearing, to
23 be in agreement with the terms of the lease and in the best interests
24 of the citizens of the state consistent with any criteria that may be
25 developed as a requirement by the legislature;

26 (2) To assume the responsibilities of the state under the perpetual
27 care agreement between the state of Washington and the federal
28 government executed July 29, 1965, and the sublease between the state
29 of Washington and the site operator of the (~~Hanford~~) commercial low-
30 level radioactive waste disposal facility. In order to finance
31 perpetual surveillance and maintenance under the agreement and ensure
32 site closure under the sublease, the department of ecology shall impose
33 and collect fees from parties holding radioactive materials for waste
34 management purposes. The fees shall be established by rule adopted
35 under chapter 34.05 RCW and shall be an amount determined by the
36 department of ecology to be necessary to defray the estimated liability
37 of the state. Such fees shall reflect equity between the disposal

1 facilities of this and other states. A site closure account and a
2 perpetual surveillance and maintenance account ~~((is))~~ are hereby
3 created in the state treasury. Site use permit fees collected by the
4 department of health under RCW 70.98.085(3) must be deposited in the
5 site closure account and must be used as specified in RCW 70.98.085(3).
6 Funds in the site closure account other than site use permit fee funds
7 shall be exclusively available to reimburse, to the extent that moneys
8 are available in the account, the site operator for its costs plus a
9 reasonable profit as agreed by the operator and the state, or to
10 reimburse the state licensing agency and any agencies under contract to
11 the state licensing agency for their costs in final closure and
12 decommissioning of the ~~((Hanford))~~ commercial low-level radioactive
13 waste disposal facility. If a balance remains in the account after
14 satisfactory performance of closure and decommissioning, this balance
15 shall be transferred to the perpetual surveillance and maintenance
16 account. The perpetual surveillance and maintenance account shall be
17 used exclusively by the state to meet post-closure surveillance and
18 maintenance costs, or for otherwise satisfying surveillance and
19 maintenance obligations. Appropriations are required to permit
20 expenditures and payment of obligations from the site closure account
21 and the perpetual surveillance and maintenance account. ~~((All moneys,~~
22 ~~including earnings from the investment of balances in the site closure~~
23 ~~and the perpetual surveillance and maintenance account, less the~~
24 ~~allocation to the state treasurer's service fund, pursuant to RCW~~
25 ~~43.08.190 accruing under the authority of this section shall be~~
26 ~~directed to the site closure account until December 31, 1992.~~
27 ~~Thereafter receipts including earnings from the investment of balances~~
28 ~~in the site closure and the perpetual surveillance and maintenance~~
29 ~~account, less the allocation to the state treasurer's service fund,~~
30 ~~pursuant to RCW 43.08.190))~~ Receipts shall be directed to the site
31 closure account and the perpetual surveillance and maintenance account
32 as specified by the department. Additional moneys specifically
33 appropriated by the legislature or received from any public or private
34 source may be placed in the site closure account and the perpetual
35 surveillance and maintenance account. During the 2003-2005 fiscal
36 biennium, the legislature may transfer up to thirteen million eight
37 hundred thousand dollars from the site closure account to the general
38 fund;

1 (3)(a) Subject to the conditions in (b) of this subsection, on July
2 1, 2008, and each July 1st thereafter, the treasurer shall transfer
3 from the perpetual surveillance and maintenance account to the site
4 closure account the sum of nine hundred sixty-six thousand dollars.
5 The nine hundred sixty-six thousand dollars transferred on July 1,
6 2009, and thereafter shall be adjusted to a level equal to the
7 percentage increase in the United States implicit price deflator for
8 personal consumption. The last transfer under this section shall occur
9 on July 1, 2033.

10 (b) The transfer in (a) of this subsection shall occur only if
11 written agreement is reached between the state department of ecology
12 and the United States department of energy pursuant to section 6 of the
13 perpetual care agreement dated July 29, 1965, between the United States
14 atomic energy commission and the state of Washington. If agreement
15 cannot be reached between the state department of ecology and the
16 United States department of energy by June 1, 2008, the treasurer shall
17 transfer the funds from the general fund to the site closure account
18 according to the schedule in (a) of this subsection.

19 (c) If for any reason the ((Hanford)) commercial low-level
20 radioactive waste disposal facility is closed to further disposal
21 operations during or after the 2003-2005 biennium and before 2033, then
22 the amount remaining to be repaid from the 2003-2005 transfer of
23 thirteen million eight hundred thousand dollars from the site closure
24 account shall be transferred by the treasurer from the general fund to
25 the site closure account to fund the closure and decommissioning of the
26 facility. The treasurer shall transfer to the site closure account in
27 full the amount remaining to be repaid upon written notice from the
28 secretary of health that the department of health has authorized
29 closure or that disposal operations have ceased. The treasurer shall
30 complete the transfer within sixty days of written notice from the
31 secretary of health.

32 (d) To the extent that money in the site closure account together
33 with the amount of money identified for repayment to the site closure
34 account, pursuant to (a) through (c) of this subsection, equals or
35 exceeds the cost estimate approved by the department of health for
36 closure and decommissioning of the facility, the money in the site
37 closure account together with the amount of money identified for

1 repayment to the site closure account shall constitute adequate
2 financial assurance for purposes of the department of health financial
3 assurance requirements;

4 (4) To assure maintenance of such insurance coverage by state
5 licensees, lessees, or sublessees as will adequately, in the opinion of
6 the director, protect the citizens of the state against nuclear
7 accidents or incidents that may occur on privately or state-controlled
8 nuclear facilities;

9 ~~(5) ((To institute a user permit system and issue site use permits,~~
10 ~~consistent with regulatory practices, for generators, packagers, or~~
11 ~~brokers using the Hanford low level radioactive waste disposal~~
12 ~~facility. The costs of administering the user permit system shall be~~
13 ~~borne by the applicants for site use permits. The site use permit fee~~
14 ~~shall be set at a level that is sufficient to fund completely the~~
15 ~~executive and legislative participation in activities related to the~~
16 ~~Northwest Interstate Compact on Low Level Radioactive Waste Management;~~

17 ~~(6))~~ To make application for or otherwise pursue any federal funds
18 to which the state may be eligible, through the federal resource
19 conservation and recovery act or any other federal programs, for the
20 management, treatment or disposal, and any remedial actions, of wastes
21 that are both radioactive and hazardous at all ((Hanford)) commercial
22 low-level radioactive waste disposal facilities; and

23 ((+7)) (6) To develop contingency plans for duties and options for
24 the department and other state agencies related to the ((Hanford))
25 commercial low-level radioactive waste disposal facility based on
26 various projections of annual levels of waste disposal. These plans
27 shall include an analysis of expected revenue to the state in various
28 taxes and funds related to low-level radioactive waste disposal and the
29 resulting implications that any increase or decrease in revenue may
30 have on state agency duties or responsibilities. The plans shall be
31 updated annually.

32 **Sec. 3.** RCW 43.200.170 and 1990 c 21 s 3 are each amended to read
33 as follows:

34 The governor may assess surcharges and penalty surcharges on the
35 disposal of waste at the ((Hanford)) commercial low-level radioactive
36 waste disposal facility. The surcharges may be imposed up to the
37 maximum extent permitted by federal law. Ten dollars per cubic foot of

1 the moneys received under this section shall be transmitted monthly to
2 the site closure account established under RCW 43.200.080. The rest of
3 the moneys received under this section shall be deposited in the
4 general fund.

5 **Sec. 4.** RCW 43.200.180 and 1998 c 245 s 81 are each amended to
6 read as follows:

7 Except as provided in chapter 70.98 RCW related to administration
8 of a user permit system, the department of ecology shall be the state
9 agency responsible for implementation of the federal low-level
10 radioactive waste policy amendments act of 1985, including:

11 (1) Collecting and administering the surcharge assessed by the
12 governor under RCW 43.200.170;

13 (2) Collecting low-level radioactive waste data from disposal
14 facility operators, generators, intermediate handlers, and the federal
15 department of energy;

16 (3) Developing and operating a computerized information system to
17 manage low-level radioactive waste data;

18 (4) Denying and reinstating access to the ((Hanford)) commercial
19 low-level radioactive waste disposal facility pursuant to the authority
20 granted under federal law;

21 (5) Administering and/or monitoring (a) the maximum waste volume
22 levels for the ((Hanford)) commercial low-level radioactive waste
23 disposal facility, (b) reactor waste allocations, (c) priority
24 allocations under the Northwest Interstate Compact on Low-Level
25 Radioactive Waste Management, and (d) adherence by other states and
26 compact regions to federal statutory deadlines; and

27 (6) Coordinating the state's low-level radioactive waste disposal
28 program with similar programs in other states.

29 **Sec. 5.** RCW 43.200.190 and 1998 c 245 s 82 are each amended to
30 read as follows:

31 The department of ecology shall perform studies, by contract or
32 otherwise, to define site closure and perpetual care and maintenance
33 requirements for the ((Hanford)) commercial low-level radioactive waste
34 disposal facility and to assess the adequacy of insurance coverage for
35 general liability, radiological liability, and transportation liability
36 for the facility.

1 **Sec. 6.** RCW 43.200.200 and 1998 c 245 s 83 are each amended to
2 read as follows:

3 (1) The director of the department of ecology (~~(shall)~~) may
4 periodically review the potential for bodily injury and property damage
5 arising from the transportation and disposal of commercial low-level
6 radioactive waste under permits issued by the state.

7 (2) (~~The director may require permit holders to demonstrate~~
8 ~~financial assurance in an amount that is adequate to protect the state~~
9 ~~and its citizens from all claims, suits, losses, damages, or expenses~~
10 ~~on account of injuries to persons and property damage arising or~~
11 ~~growing out of the transportation or disposal of commercial low-level~~
12 ~~radioactive waste. The financial assurance may be in the form of~~
13 ~~insurance, cash deposits, surety bonds, corporate guarantees, and other~~
14 ~~acceptable instruments or guarantees determined by the director to be~~
15 ~~acceptable evidence of financial assurance.~~

16 (3)) In making the determination of the appropriate level of
17 financial assurance, the director shall consider:

18 (a) The nature and purpose of the activity and its potential for
19 injury and damages to or claims against the state and its citizens;

20 (b) The current and cumulative manifested volume and radioactivity
21 of waste being packaged, transported, buried, or otherwise handled;

22 (c) The location where the waste is being packaged, transported,
23 buried, or otherwise handled, including the proximity to the general
24 public and geographic features such as geology and hydrology, if
25 relevant; and

26 (d) The legal defense cost, if any, that will be paid from the
27 required financial assurance amount.

28 (~~(4) The director may establish different levels of required~~
29 ~~financial assurance for various classes of permit holders.~~

30 (5) ~~The director shall establish by rule the instruments or~~
31 ~~mechanisms by which a permit applicant or holder may demonstrate~~
32 ~~financial assurance as required by RCW 43.200.210.)~~

33 **Sec. 7.** RCW 43.200.230 and 1991 c 272 s 16 are each amended to
34 read as follows:

35 The director of the department of ecology shall require that
36 generators of waste pay a fee for each cubic foot of waste disposed at
37 any facility in the state equal to six dollars and fifty cents. The

1 fee shall be imposed specifically on the generator of the waste and
2 shall not be considered to apply in any way to the low-level site
3 operator's disposal activities. The fee shall be allocated in
4 accordance with RCW 43.200.233 and 43.200.235. (~~This subsection shall~~
5 ~~be invalidated and the authorization to collect a surcharge removed if~~
6 ~~the legislature or any administrative agency of the state of Washington~~
7 ~~prior to January 1, 1993, (1) imposes fees, assessments, or charges~~
8 ~~other than perpetual care and maintenance, site surveillance, and site~~
9 ~~closing fees currently applicable to the Hanford commercial low-level~~
10 ~~waste-site operator's activities, (2) imposes any additional fees,~~
11 ~~assessments, or charges on generators using the Hanford commercial low-~~
12 ~~level waste site, or (3) increases any existing fees, assessments, or~~
13 ~~charges.)) Failure to comply with this section may result in denial or
14 suspension of the generator's site use permit pursuant to RCW
15 70.98.085.~~

16 **Sec. 8.** RCW 70.98.030 and 1991 c 3 s 355 are each amended to read
17 as follows:

18 (1) "By-product material" means any radioactive material (except
19 special nuclear material) yielded in or made radioactive by exposure to
20 the radiation incident to the process of producing or utilizing special
21 nuclear material.

22 (2) "Ionizing radiation" means gamma rays and x-rays, alpha and
23 beta particles, high-speed electrons, neutrons, protons, and other
24 atomic or subatomic particles; but not sound or radio waves, or
25 visible, infrared, or ultraviolet light.

26 (3)(a) "General license" means a license effective pursuant to
27 rules promulgated by the state radiation control agency, without the
28 filing of an application, to transfer, acquire, own, possess, or use
29 quantities of, or devices or equipment utilizing, by-product, source,
30 special nuclear materials, or other radioactive material occurring
31 naturally or produced artificially.

32 (b) "Specific license" means a license, issued after application to
33 use, manufacture, produce, transfer, receive, acquire, own, or possess
34 quantities of, or devices or equipment utilizing by-product, source,
35 special nuclear materials, or other radioactive materials occurring
36 naturally or produced artificially.

1 (4) "Person" means any individual, corporation, partnership, firm,
2 association, trust, estate, public or private institution, group,
3 agency, political subdivision of this state, any other state or
4 political subdivision or agency thereof, and any legal successor,
5 representative, agent, or agency of the foregoing, other than the
6 United States Atomic Energy Commission, or any successor thereto, and
7 other than federal government agencies licensed by the United States
8 Atomic Energy Commission, or any successor thereto.

9 (5) "Source material" means (a) uranium, thorium, or any other
10 material which is determined by the United States Nuclear Regulatory
11 Commission or its successor pursuant to the provisions of section 61 of
12 the United States Atomic Energy Act of 1954, as amended (42 U.S.C. Sec.
13 209) to be source material; or (b) ores containing one or more of the
14 foregoing materials, in such concentration as the commission may by
15 regulation determine from time to time.

16 (6) "Special nuclear material" means (a) plutonium, uranium
17 enriched in the isotope 233 or in the isotope 235, and any other
18 material which the United States Nuclear Regulatory Commission or its
19 successor, pursuant to the provisions of section 51 of the United
20 States Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2071),
21 determines to be special nuclear material, but does not include source
22 material; or (b) any material artificially enriched by any of the
23 foregoing, but does not include source material.

24 (7) "Registration" means registration with the state department of
25 health by any person possessing a source of ionizing radiation in
26 accordance with rules adopted by the department of health.

27 (8) "Radiation source" means any type of device or substance which
28 is capable of producing or emitting ionizing radiation.

29 (9) "Site use permit" means a permit, issued after application, to
30 use the commercial low-level radioactive waste disposal facility.

31 **Sec. 9.** RCW 70.98.085 and 1990 c 21 s 7 are each amended to read
32 as follows:

33 (1) The agency is empowered to administer a user permit system and
34 issue site use permits for generators, packagers, or brokers to use the
35 commercial low-level radioactive waste disposal facility. The agency
36 may issue a site use permit consistent with the requirements of this
37 chapter and the rules adopted under it and the requirements of the

1 Northwest Interstate Compact on Low-Level Radioactive Waste Management
2 under chapter 43.145 RCW. The agency may deny an application for a
3 site use permit or modify, suspend ((and reinstate)), or revoke a site
4 use permit((s-consistent-with-current-regulatory-practices-and-in
5 coordination with the department of ecology, for generators, packagers,
6 or-brokers-using-the-Hanford-low-level-radioactive-waste-disposal
7 facility)) in any case in which it finds that the permit was obtained
8 by fraud or there is or has been a failure, refusal, or inability to
9 comply with the requirements of this chapter or rules adopted under
10 this chapter or the requirements of the Northwest Interstate Compact on
11 Low-Level Radioactive Waste Management under chapter 43.145 RCW. The
12 agency may also deny or suspend a site use permit for failure to comply
13 with RCW 43.200.230.

14 (2) Any permit issued by the department of ecology for a site use
15 permit pursuant to chapter 43.200 RCW is valid until the first
16 expiration date that occurs after July 1, 2012.

17 (3) The agency shall collect a fee from the applicants for site use
18 permits that is sufficient to fund the costs to the agency to
19 administer the user permit system. The site use permit fee must be set
20 at a level that is also sufficient to fund state participation in
21 activities related to the Northwest Interstate Compact on Low-Level
22 Radioactive Waste Management under chapter 43.145 RCW. The site use
23 permit fees must be deposited in the site closure account established
24 in RCW 43.200.080(2). Appropriations to the department of health or
25 the department of ecology are required to permit expenditures using
26 site use permit fee funds from the site closure account.

27 (4) The agency shall collect a surveillance fee as an added charge
28 on each cubic foot of low-level radioactive waste disposed of at the
29 commercial low-level radioactive waste disposal site in this state
30 which shall be set at a level that is sufficient to fund completely the
31 radiation control activities of the agency directly related to the
32 disposal site, including but not limited to the management, licensing,
33 monitoring, and regulation of the site. ((The surveillance fee shall
34 not exceed five percent in 1990, six percent in 1991, and seven percent
35 in 1992 of the basic minimum fee charged by an operator of a low-level
36 radioactive waste disposal site in this state. The basic minimum fee
37 consists of the disposal fee for the site operator, the fee for the
38 perpetual care and maintenance fund administered by the state, the fee

1 ~~for the state closure fund, and the tax collected pursuant to chapter~~
2 ~~82.04 RCW. Site use permit fees and surcharges collected under chapter~~
3 ~~43.200 RCW are not part of the basic minimum fee.))~~ The fee shall also
4 provide funds to the Washington state patrol for costs incurred from
5 inspection of low-level radioactive waste shipments entering this
6 state. Disbursements for this purpose shall be by authorization of the
7 secretary of the department of health or the secretary's designee.

8 (5) The agency shall require that any person who holds or applies
9 for a permit under this chapter indemnify and hold harmless the state
10 from claims, suits, damages, or expenses on account of injuries to or
11 death of persons and property damage, arising or growing out of any
12 operations and activities for which the person holds the permit, and
13 any necessary or incidental operations.

14 (6) The agency may adopt such rules as are necessary to carry out
15 its responsibilities under this section.

16 **Sec. 10.** RCW 70.98.095 and 1992 c 61 s 3 are each amended to read
17 as follows:

18 (1) The radiation control agency may require any person who
19 applies for, or holds, a license under this chapter to demonstrate that
20 the person has financial assurance sufficient to assure that liability
21 incurred as a result of licensed operations and activities can be fully
22 satisfied. Financial assurance may be in the form of insurance, cash
23 deposits, surety bonds, corporate guarantees, letters of credit, or
24 other financial instruments or guarantees determined by the agency to
25 be acceptable financial assurance. The agency may require financial
26 assurance in an amount determined by the secretary pursuant to RCW
27 70.98.098.

28 (2) The radiation control agency may require site use permit
29 holders to demonstrate financial assurance in an amount that is
30 adequate to protect the state and its citizens from all claims, suits,
31 losses, damages, or expenses on account of injuries to persons and
32 property damage arising or growing out of the transportation or
33 disposal of commercial low-level radioactive waste. The financial
34 assurance may be in the form of insurance, cash deposits, surety bonds,
35 corporate guarantees, and other acceptable instruments or guarantees
36 determined by the secretary to be acceptable evidence of financial

1 assurance. The agency may require financial assurance in an amount
2 determined by the secretary pursuant to RCW 70.98.098.

3 (3) The radiation control agency shall refuse to issue a license or
4 permit or suspend the license or permit of any person required by this
5 section to demonstrate financial assurance who fails to demonstrate
6 compliance with this section. The license or permit shall not be
7 issued or reinstated until the person demonstrates compliance with this
8 section.

9 ((3)) (4) The radiation control agency shall require (a) that any
10 person required to demonstrate financial assurance, maintain with the
11 agency current copies of any insurance policies, certificates of
12 insurance, letters of credit, surety bonds, or any other documents used
13 to comply with this section, (b) that the agency be notified of any
14 changes in the financial assurance or financial condition of the
15 person, and (c) that the state be named as an insured party on any
16 insurance policy used to comply with this section.

17 **Sec. 11.** RCW 70.98.098 and 2003 1st sp.s. c 21 s 2 are each
18 amended to read as follows:

19 (1) In making the determination of the appropriate level of
20 financial assurance, the secretary shall consider: (a) ((The)) Any
21 report prepared by the department of ecology pursuant to RCW
22 43.200.200; (b) the potential cost of decontamination, treatment,
23 disposal, decommissioning, and cleanup of facilities or equipment; (c)
24 federal cleanup and decommissioning requirements; and (d) the legal
25 defense cost, if any, that might be paid from the required financial
26 assurance.

27 (2) The secretary may establish different levels of required
28 financial assurance for various classes of permit or license holders.

29 (3) The secretary shall establish by rule the instruments or
30 mechanisms by which a person may demonstrate financial assurance as
31 required by RCW 70.98.095.

32 (4) To the extent that money in the site closure account together
33 with the amount of money identified for repayment to the site closure
34 account pursuant to RCW 43.200.080 equals or exceeds the cost estimate
35 approved by the department of health for closure and decommissioning of
36 the ((Hanford)) commercial low-level radioactive waste disposal
37 facility, the money in the site closure account together with the

1 amount of money identified for repayment to the site closure account
2 shall constitute adequate financial assurance for purposes of the
3 department of health financial assurance requirements under RCW
4 70.98.095.

5 **Sec. 12.** RCW 70.98.130 and 1989 c 175 s 133 are each amended to
6 read as follows:

7 (1) In any proceeding under this chapter for the issuance or
8 modification or repeal of rules relating to control of sources of
9 ionizing radiation, the agency shall comply with the requirements of
10 chapter 34.05 RCW, the administrative procedure act.

11 (2) Notwithstanding any other provision of this chapter, whenever
12 the agency finds that an emergency exists requiring immediate action to
13 protect the public health, safety, or general welfare, the agency may,
14 in accordance with RCW 34.05.350 without notice or hearing, adopt a
15 rule reciting the existence of such emergency and require that such
16 action be taken as is necessary to meet the emergency. As specified in
17 RCW 34.05.350, such rules are effective immediately.

18 (3) In any case in which the department denies, modifies, suspends,
19 or revokes a license or permit, RCW 43.70.115 governs notice of the
20 action and provides the right to an adjudicative proceeding to the
21 applicant or licensee or permittee. Such an adjudicative proceeding is
22 governed by chapter 34.05 RCW.

23 NEW SECTION. **Sec. 13.** A new section is added to chapter 70.98 RCW
24 to read as follows:

25 The agency shall adopt rules for administering a site use permit
26 program under RCW 70.98.085.

27 NEW SECTION. **Sec. 14.** A new section is added to chapter 43.200
28 RCW to read as follows:

29 (1) The site use permit program is transferred from the department
30 of ecology to the department of health.

31 (2)(a) All reports, documents, surveys, books, records, files,
32 papers, or written material in the possession of the department of
33 ecology site use permit program shall be delivered to the custody of
34 the department of health. All funds, credits, or other assets held by

1 the department of ecology site use permit program shall be assigned to
2 the department of health.

3 (b) Any appropriations made to the department of ecology for the
4 site use permit program shall be transferred and credited to the
5 department of health.

6 (3) All rules of the department of ecology site use permit program
7 shall be continued and acted upon by the department of health until new
8 rules are adopted under RCW 70.98.085. All permit applications and
9 pending business before the department of ecology site use permit
10 program shall be continued and acted upon by the department of health.
11 All existing contracts and obligations shall remain in full force and
12 shall be performed by the department of health.

13 (4) The transfer of the powers, duties, functions, and personnel of
14 the department of ecology site use permit program to the department of
15 health under this act shall not affect the validity of any activity
16 performed before the effective date of this section.

17 NEW SECTION. **Sec. 15.** This act takes effect July 1, 2012.

18 NEW SECTION. **Sec. 16.** RCW 43.200.210 (Immunity of state--
19 Demonstration of financial assurance--Suspension of permit) and 1992 c
20 61 s 2, 1990 c 82 s 2, & 1986 c 191 s 2 are each repealed.

Passed by the House February 13, 2012.

Passed by the Senate February 24, 2012.

Approved by the Governor March 7, 2012.

Filed in Office of Secretary of State March 7, 2012.